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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/461,336	12/15/1999	DAZHI CHEN	043311-0313722	3675
909	7590	02/19/2010		
PILLSBURY WINTHROP SHAW PITTMAN, LLP			EXAMINER	
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MCLEAN, VA 22102			ART UNIT	PAPER NUMBER
			3627	
		MAIL DATE	DELIVERY MODE	
		02/19/2010	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/461,336	<b>Applicant(s)</b> CHEN ET AL.
	<b>Examiner</b> Asfand M. Sheikh	<b>Art Unit</b> 3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

#### Status

1) Responsive to communication(s) filed on 12 November 2009.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-134 and 136-153 is/are pending in the application.

4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-10,14-16,23-45,49-51,58-81,84-98,100,102-112,115-129,131,133,134 and 136-153 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Final Drawing Review (PTO-544a)

3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date 7/21/2009

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date: \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

Continuation of Disposition of Claims: Claims withdrawn from consideration are 11-13,17-22,48,52-57,82,83,99,101,113,114,130 and 132.

#### **DETAILED ACTION**

##### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/12/2009 has been entered.

##### ***Response to Arguments***

Applicant's arguments filed 11/12/2009 have been fully considered but they are not persuasive.

With respect to claims 1, 36, 71, 102, 133, and 153, the applicant argues the cited references of Mossberg in view of Gregory and Woolston fail to disclose (claim 1, reproduced below, similar arguments apply to Claims 36, 71, 102, 133, and 153).

(i) a business having peak and non-peak demand periods; and (ii) and an item that is redeemable for the service from a businesses during a non-peak demand period to obtain a discount from the predetermined price of the item during the non-peak demand period, and;

an auction posting module for enabling one or more businesses to post on the web-site at least one item for auction, including restrictions comprising valid dates and

times for use of the at least one item, the restrictions corresponding to a non-peak demand period of a business to reduce excess capacity of that business during the non-peak demand period.

The examiner disagrees. The examiner notes the cites references of Mossberg in view of Gregory and Woolston do indeed teach the cited limitations as claimed by the applicant when the references are read in combination of one another. The examiner notes that one of ordinary skill in the art would have had the knowledge to combine the elements from Mossberg in view of Gregory and Woolston in order to achieve a predictable result that would indeed read on the applicant's claimed invention.

First the examiner notes Gregory does indeed teach "(i) a business having peak and non-peak demand periods; and (ii) and an item that is redeemable for the service from a businesses during a non-peak demand period to obtain a discount from the predetermined price of the item during the non-peak demand period." The examiner notes the following: Gregory discloses one or more restaurants create/customize coupon/certificate for specific locations (see at least, col. 6, lines 54-67). Further Gregory discloses if a particular restaurant location is not doing well a coupon can be distributed that provides a greater discount at that restaurant location than the discount provided at other locations (see at least, col. 6, lines 54-67). Further Gregory discloses the coupon/certificate would have include specific details like the amount of the discount on the coupon, the days and hours the coupon is valid, the location at which the coupon/certificate is valid, the expiration date of the coupon, and the product to which the coupon/certificate applies (see at least, col. 6, lines 54-67). The examiner notes as

interpreted this would read on the applicant's claim of "a business having peak and non-peak demand periods; and (ii) and an item that is redeemable for the service from a businesses during a non-peak demand period to obtain a discount from the predetermined price of the item during the non-peak demand period".

Second the examiner notes Woolston does indeed disclose "an auction posting module for enabling one or more businesses to post on the web-site at least one item for auction, including..." **information** (e.g. *restrictions comprising valid dates and times for use of the at least one item, the restrictions corresponding to a non-peak demand period of a business to reduce excess capacity of that business during the non- peak demand period*). The examiner notes the following: Woolston discloses enabling one or more users to post on the web site a listing of one or more items being offered for sale (see at least, col. 5, lines 46-51) and further providing the ability to list further descriptive information regarding the sale of the item (see at least, FIG 13: the examiner notes the descriptive information is a matter of design choice (e.g. valid dates and times for use of the one or more discounted gift certificates to reduce excess capacity during the non-peak demand period)) and further displaying options to enable users to place a bid on one or more items for auction and being determined a winner (see at least, col. 13, lines 21-57) or to purchase the one or more discounted gift certificates at a fixed price independent of the auction via an instant purchase feature without participating in the auction (see at least, col. 13, lines 21-57) and awarding the auction winner the item (see at least, col. 13, lines 21-57). The examiner notes the information in Woolston can be modified to be the listing of any information deemed fit for the auction environment.

This could include the coupon, the days and hours the coupon is valid, the location at which the coupon/certificate is valid, the expiration date of the coupon, and the product to which the coupon/certificate applies (see at least, col. 6, lines 54-67) as taught by Gregory.

Therefore as noted previously, the examiner respectively notes that one of ordinary skill in the art would have had the knowledge to combine the elements from Mossberg in view of Gregory and Woolston in order to achieve a predictable result that would indeed read on the applicant's claimed invention. Therefore this argument is not persuasive.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-10, 14-16, 23-36, 37-45, 49-51, 58-81, 84- 98, I00, 102-112, 115-129, 131, 133-134, and 136-146 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mossberg (US 5,803,500) in view of Gregory (US 5,909,673) and Woolston (US 5,845,265).

Claims 1-10, 14-16, 23-36, 37-45, 49-51, 58-81, 84- 98, I00, 102-112, 115-129, 131, 133-134, 136-146

Mossberg discloses a method enabling the conducting of a silent auction (see at least, col. 3, lines 44-47) and that the auction could be conducted for profit (see at least, col. 3, lines 49-54). Further Mossberg discloses [claim 139 and 140] an auction item or multiple similar auction items which can include a certificate entitling the bearer to specific goods or services or invitations to dinner (e.g. invitation to a restaurant) (see at least, col. 3, lines 57-61).

Mossberg fails to disclose **providing a computer-implemented processing system comprising a plurality of modules; providing an auction posting module for enabling one or more of the restaurants to post on the web site a listing of at least one discounted gift certificates being offered for sale, including restrictions comprising valid dates and times for use of the at least one discounted gift certificate, the restrictions corresponding to non-peak demand period of a restaurant to**

reduce excess capacity during the non-peak demand period; and **providing an auction display module for** displaying options to enable users to place a bid on **at least one** discounted gift certificates for auction and being determined a winner, or to purchase the one or more discounted gift certificates at a fixed price independent of the auction via an instant purchase feature without participating in the auction; and **providing** the **at least one discounted gift certificate to a purchaser** or the auction winner the discounted gift certificates, wherein the discounted gift certificates are redeemable for the service from a corresponding one of the one or more restaurants during the non-peak demand period **for a discount from the predetermined price, subject to restrictions.**

Gregory discloses one or more restaurants create/customize coupon/certificate for specific locations (see at least, col. 6, lines 54-67). Further Gregory discloses if a particular restaurant location is not doing well a coupon can be distributed that provides a greater discount at that restaurant location than the discount provided at other locations (see at least, col. 6, lines 54-67). Further Gregory discloses the coupon/certificate would have include specific details like the amount of the discount on the coupon, the days and hours the coupon is valid, the location at which the coupon/certificate is valid, the expiration date of the coupon, and the product to which the coupon/certificate applies (see at least, col. 6, lines 54-67).

Therefore the examiner asserts it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mossberg's silent auction of certificate to an invitation to dinner to include one or more discounted gift certificates

being offered for sale wherein the one or more restaurants provide the valid dates and times for use of the one or more discounted gift certificates to reduce excess capacity during the non-peak demand period and wherein the discounted gift certificates are redeemable for the service from a corresponding one of the one or more restaurants during the non-peak demand period as taught by Gregory to have an auction for a coupon/certificate that contains the valid dates and times that a coupon can be used. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide boosts in profit for restaurants, if a given restaurant location is not doing well (see at least, Gregory, col. 6, lines 54-67).

Mossberg in view of Gregory fails to disclose **providing a computer-implemented processing system comprising a plurality of modules; providing an auction posting module for** enabling one or more of the restaurants to post on the web site a listing of **at least one** discounted gift certificates being offered for sale, **including restrictions comprising** valid dates and times for use of the at least one discounted gift certificate, **the restrictions corresponding to non-peak demand period of a restaurant** to reduce excess capacity during the non-peak demand period; and **providing an auction display module for** displaying options to enable users to place a bid on **at least one** discounted gift certificates for auction and being determined a winner, or to purchase the one or more discounted gift certificates at a fixed price independent of the auction via an instant purchase feature without participating in the auction; and **providing** the at least one **discounted gift certificate to a purchaser or the auction winner.**

Woolston discloses enabling one or more users to post on the web site a listing of one or more items being offered for sale (see at least, col. 5, lines 46-51) and further providing the ability to list further descriptive information regarding the sale of the item (see at least, FIG 13: the examiner notes the descriptive information is a matter of design choice (e.g. valid dates and times for use of the one or more discounted gift certificates to reduce excess capacity during the non-peak demand period)) and further displaying options to enable users to place a bid on one or more items for auction and being determined a winner (see at least, col. 13, lines 21-57) or to purchase the one or more discounted gift certificates at a fixed price independent of the auction via an instant purchase feature without participating in the auction (see at least, col. 13, lines 21-57) and awarding the auction winner the item (see at least, col. 13, lines 21-57). Further Woolston discloses **[claim 134]** the user setting a minimum bid price for an auction item (see at least, col. 15, lines 43-67); **[claim 136 and 138]** wherein the website includes an auction display feature, the auction display comprising one or more of a name of the item, name of the manufacturer (e.g. examiner interprets this could include a restaurant), a description of the at least one item, including the validity and value (e.g. the examiner notes this information is a matter of design choice), a minimum bid requirement, and a status of the auction, including a current bid and a time left for bidding (see at least, col. 11, lines 46-col. 12, lines 9 and col. 15, lines 43-67 and FIG. 13); **[claim 137]** wherein the web site includes an item display feature, the display comprising an indication that the immediate purchase option is available at a fixed price for immediate purchase (see at least, col. 15, lines 43-67) and **[claim 141]** wherein

more than one individual can auction off items (see at least, Summary of the Invention); [claim 145 and 146] user must register with the website prior to bidding on or purchasing an item and member nickname and password (see at least, col. 12, lines 20-col. 13, line 20).

Therefore the examiner asserts it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mossberg in view of Gregory's auctioning of a certificate to include enabling one or more users to post on the web site a listing of one or more items being offered for sale and further providing the ability to list further descriptive information regarding the sale of the item and further displaying options to enable users to place a bid on one or more items for auction and being determined a winner or to purchase the one or more discounted gift certificates at a fixed price independent of the auction via an instant purchase feature without participating in the auction and awarding the auction winner the item as taught by Woolston to have an online auction capability for offering coupons for sale. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide a low cost computer means for vendors to establish a "trusted" computerized market for items (see at least, Woolston, col. 1, lines 34-36).

Further Woolston discloses [claim 134] the user setting a minimum bid price for an auction item (see at least, col. 15, lines 43-67); [claim 136 and 138] wherein the website includes an auction display feature, the auction display comprising one or more of a name of the item, name of the manufacturer (e.g. examiner interprets this could include a restaurant), a description of the at least one item, including the validity and

value (e.g. the examiner notes this information is a matter of design choice), a minimum bid requirement, and a status of the auction, including a current bid and a time left for bidding (see at least, col. 11, lines 46-col. 12, lines 9 and col. 15, lines 43-67 and FIG. 13); **[claim 137]** wherein the web site includes an item display feature, the display comprising an indication that the immediate purchase option is available at a fixed price for immediate purchase (see at least, col. 15, lines 43-67) and **[claim 141]** wherein more than one individual can auction off items (see at least, Summary of the Invention); **[claim 145 and 146]** user must register with the website prior to bidding on or purchasing an item and member nickname and password (see at least, col. 12, lines 20-col. 13, line 20).

Claims 147-148 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mossberg (US 5,803,500) in view of Gregory (US 5,909,673) and Woolston (US 5,845,265) as applied to the independent claims above, and further in view of Examiner's Official Notice.

Claims 147-148

The examiner notes that the combination of Mossberg in view of Gregory and Woolston disclose the limitations of the invention the combination however is silent with respect to including demographic information during registration.

However, the examiner takes Official Notice that many websites require user's to input demographic information during registration in order to better tailor to user's needs. This helps by maximizing the user's experience based on the collected data.

Therefore the examiner asserts it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mossberg in view of Gregory and Woolston to include having a user input demographic information during registration as taught by Examiner's Official Notice. One of ordinary skill in the art would have been motivated to do so in order to maximize the user's experience based on the collected data.

Claims 149-153 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mossberg (US 5,803,500) in view of Gregory (US 5,909,673) and Woolston (US 5,845,265) as applied to the independent claims above, and in further view of Shear et al. (US 6,112,181),

Claim 149

The examiner notes that the combination of Mossberg in view of Gregory and Woolston disclose the limitations of the invention the combination however is silent with respect to a restaurant search module.

Shear discloses a restaurant search module (Shear, see at least, Abstract and col. 8, lines 66-67 and col. 9, lines 1-26).

Therefore the examiner asserts it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mossberg in view of Gregory and Woolston to include a restaurant search module as taught by Shear. One of ordinary skill in the art would have been motivated to combine the teachings in order to help a user find the items they are looking for quickly and easily (see at least, Shear, col. 3, lines 20-31).

Claim 150

The examiner notes that the combination of Mossberg in view of Gregory and Woolston disclose the limitations of the invention the combination however is silent with respect to a restaurant search module including an interactive guide.

Shear discloses a restaurant search module including an interactive guide (Shear, see at least, Abstract and col. 8, lines 66-67 and col. 9, lines 1-26).

Therefore the examiner asserts it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mossberg in view of Gregory and Woolston to include a restaurant search module including an interactive guide as taught by Shear. The motivation to combine is the same as claim 149, above.

Claim 151-153

The examiner notes that the combination of Mossberg in view of Gregory and Woolston disclose the limitations of the invention the combination however is silent with

Art Unit: 3627

respect to listing restaurants based on desired cuisine, zip code, or other geographic area parameters or other search parameters.

Shear discloses listing restaurants based on desired cuisine (Shear, see at least, Abstract and col. 8, lines 66-67 and col. 9, lines 1-26).

Therefore the examiner asserts it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mossberg in view of Gregory and Woolston to include to include a listing restaurants based on desired cuisine, as taught by Shear. The motivation to combine is the same as claim 149, above.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asfand M. Sheikh whose telephone number is (571)272-1466. The examiner can normally be reached on 9a-5p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan M. Zeender can be reached on (571)272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Asfand M. Sheikh/  
Examiner, Art Unit 3627  
2/15/2010